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October 19, 2017

Via ECF

Honorable Douglas E. Arpert, U.S.M.J.
Clarkson S. Fisher Federal Bldg. & U.S. Courthouse
402 E. State Street
Trenton, NJ 08608

**RE: *Lawson, et al v. Praxair, et al*
Civil Action No. 3:16-cv-02435**

Dear Judge Arpert:

As you are aware this matter involves the April 10, 2014 explosion of a Praxair Vantage Grab N' Go Portable Oxygen System (the "Product") at the University Medical Center of Princeton at Plainsboro ("UMCPP"), which resulted in life-altering catastrophic injuries to Agnes Lawson, who was working as a nurse's aide at the hospital.

Please accept this letter in support of the proposed case management deadlines which are being jointly proposed by the Plaintiffs and Third Party Defendant UMCPP. The Praxair and Western Defendants are not agreeable to the below proposed schedule.

The Western and Praxair Defendants have proposed significantly longer timeframes for the completion of discovery than is reasonable under the circumstances of this case. The Defendants' proposed timeframe is untenable for several reasons, including the age of this case and the significant length of time during which Praxair and Western have already been investigating explosions of the Product in general and the April 10, 2014 explosion in particular. Importantly, the investigation of explosions involving the Product began more than two years before the April 10, 2014 explosion that gave rise to this case.

The Plaintiffs and Third Party Defendant jointly propose the following deadlines:

- Electronic discoveryⁱ: 1/18/18
- Factual discovery: 7/18/18

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- Plaintiffs' expert reports: 9/18/18
- Defendants' expert reports: 10/18/18
- Third Party Defendant and Responsive expert reports: 11/18/18
- Expert depositions: 1/18/19
- Dispositive motions: 2/18/19

A. History of the *Lawson* Case

This case was filed in March 2016. As the matter proceeded in front of Your Honor, the Defendants took this case down a path of producing “voluntary core documents”, a term which still remains undefined. The purported purpose of the “voluntary core” production was to expedite this case’s resolution and promote judicial economy. The claimed goal of Praxair and Western was to save work, time, and money while taking this case to an early mediation. Despite that, Praxair and Western never made any definitive or meaningful offer of settlement during the mediation. Moreover, at the beginning of this case Praxair and Western made promises to the Plaintiff and to the Court that their “voluntary core documents” would be substantial and would contain the documents that were “important” to the case. Despite this, Praxair and Western are now claiming that significant work on written discovery remains and that this justifies lengthy deadlines for electronic and fact discovery.

B. Praxair and Western have been investigating and gathering documents for more than five (5) years

The investigations which Praxair and Western have been involved in began well before the April 10, 2014 explosion. The Defendants were involved with their own internal investigations as well as two Federal agency investigations involving prior similar explosions. One investigation was being conducted by the Department of Transportation and one investigation was being conducted by the Food and Drug Administration. The Defendants were under an obligation to cooperate and provide documents and information during these investigations.

The FDA investigation in particular began on or shortly after November 15, 2012 when Praxair sent a letter to the FDA providing three Medical Device Reports about three explosions that were substantially similar to the April 10, 2014 explosion. The earliest of the similar explosions was on January 8, 2012, twenty-seven months before the explosion at UMCPP. The November 15, 2012 letter specifically states that Praxair had been engaged in retrospective reviews of the prior explosion for some period of time before the FDA was informed. After the

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FDA was informed, further documents and information were exchanged between the Defendants and the FDA. Clearly Praxair and Western have been investigating these explosions and gathering documents about all of the explosions for longer than the past five (5) years.

C. Conclusion

The Plaintiffs are eager to move this matter forward toward a conclusion. The deadlines proposed herein are more than reasonable given the history of this case and the significant length of time that Praxair and Western were investigating and gathering documentation before this case began. The Plaintiffs are requesting a telephone conference with Your Honor regarding the issues set forth in this letter.

Respectfully submitted,

/s/ Christopher D. Hinderliter

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cc: **Via ECF**
All counsel of record

ⁱ An electronic discovery plan is largely finalized but a look-back date has not been agreed upon. The Defendants have not proposed any search terms to implement the Plan.